IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

RCRev..No. 129 of 2006(G)

RCA.37/2005 of RENT CONTROL APPELLATE AUTHORITY
(ADDL. DISTRICT COURT-I), KOZHIKODE
RCP.147/2003 of THE RENT CONTROL COURT
(PRL.M.KOZHIKODE-I)
KOZHIKODE.
.....

REVISION PETITIONER/APPELLANT/RESPONDENT.

ELAYAMPATIL MANI, AGED 40 YEARS,
S/O.PANHAN, RESIDING AT KATCHERI AMSOM AND DESOM,
KOZHIKODE TALUK.

BY ADV. SRI.P.R.SREEJITH

RESPONDENTS: RESPONDENTS/PETITIONER.
----

1. **PULIKKALTHARA SARADA, AGED 66 YEARS,**
   W/O.CHOYIKUTTY VAIDYAR, KACHERI AMSOM, DESOM,
   KOZHIKODE TALUK.

2. **PULIKKALTHARA BALAMANI, AGED 45 YEARS,**
   D/O/CHOYIKUTTY VAIDYAR, DO.

3. **PULIKKALTHARA MAHILAMANI, AGED 43 YEARS,**
   D/O.CHOYIKUTTY VAIDYAR,DO.

4. **PULIKKALTHARA RENUKA, AGED 41 YEARS,**
   D/O.CHOYHIKUTTY VAIDYAR, DO.

5. **PULIKKALTHARA AHALYA, AGD 39 YEARS,**
   D/O.CHOYIKUTTY VAIDYAR, DO.

6. P.T.UNNIKRISHNAN, AGD 36 YEARS,
PULIKKALTHARA VEEDU, D/O.CHOYIKUTTY VAIDYAR, DO.

BY ADV. SRI.P.V.JYOTHI PRASAD

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 19/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.A.ABDUL GAFOOR &

K.R. UDAYABHANU, JJ.

==========

R.C.R.NO. 129 OF 2006

==========

DATED THIS THE 19TH DAY OF JANUARY 2007

ORDER

Udayabhanu, J.

The revision petitioner is the tenant who is under orders of eviction on the ground advanced by the landlord/petitioners under Sections 11(3) and 11(4)(2) of the Kerala Buildings (Lease & Rent Control) Act, 1965[Act 2 of 1965] {for short 'the Act'}. Both the courts have concurrently found against him. The ground on which the R.C.P.has been filed is for the bona fide need of petitioners 1,3 and the wife of the 6th respondent, who is also a co-owner and working abroad and hence he is arrayed as respondent, to start a ladies tailoring shop. The tenant is conducting a ration shop in the premises. The eviction was sought under Section 11(4)(2) of the Act on the allegation that the revision petitioner/tenant has caused damages to the building and reduced its value and utility. The above ground was also found in favour of the landlords.

2. On a consideration of the evidence adduced and the reasoning of the courts below, we find no ground at all to interfere in the above orders. The courts have also concurrently found that the revision petitioner is not entitled to the protection of the second proviso to Section 11(3) of the Act. The evidence adduced as to the bona fide need consisted of the testimony of PW3, one of the petitioners who intends to start the ladies tailoring shop along with petitioners 1 and 2 and the wife of the 6th respondent. The courts below have meticulously considered the evidence adduced by both sides and upheld the contention of the landlord/petitioners.

3. Counsel for the revision petitioner sought one year time to vacate the premises as according to him, it will take considerable time to locate another premises to shift the ration shop and to comply necessary formalities for shifting a ration shop. Counsel for the respondents/landlords strongly opposed the same. In the circumstances and considering the fact that the revision petitioner is running a ration shop, we are inclined to grant six months time from today onwards to vacate the premises on condition that the petitioner/tenant remits the entire arrears of rent, if any, and the rent due in future and also file an affidavit before the execution court undertaking to vacate the premises on or before 19-7-2006. The

affidavit shall be filed within 30 days from today onwards. The Rent control revision is dismissed.

Sd/-

K.A.ABDUL GAFOOR
JUDGE

Sd/-
K.R.UDAYABHANU,
JUDGE

ks. **TRUE COPY**

P.S.TO JUDGE